

AMENDED IN ASSEMBLY JANUARY 10, 2000
AMENDED IN ASSEMBLY SEPTEMBER 10, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 333

Introduced by Assembly Member Papan
(Coauthor: Assembly Member Lempert)

February 11, 1999

An act to amend ~~Section 17002~~ *Sections 17002, 17003 and 17409.1* of the Financial Code, relating to ~~escrow~~ *internet escrow transactions*.

LEGISLATIVE COUNSEL'S DIGEST

AB 333, as amended, Papan. Internet escrow ~~agents~~ *transactions*.

Existing law requires that any person who engages in business as an escrow agent within the state be licensed and regulated by the Commissioner of Corporations.

This bill would require that escrow agents transacting business on the Internet be licensed and regulated by the Director of Consumer Affairs.

This bill would implement the following changes relating to activities conducted by Internet escrow companies: (1) expand escrow transactions to include those taking place on the Internet for services; (2) permit Internet escrow transactions using Internet-authorized payment alternatives, and; (3) substitute electronic transfers for traditional account transfers.

~~Existing law, the Escrow Law, provides that it is unlawful for any person to engage in business as an escrow agent within this state unless by means of a corporation licensed to do so.~~

~~Existing legislation, if enacted, would make provisions of the Escrow Law applicable to an Internet escrow agent, defined as any person engaged in the business of receiving escrows for deposit or delivery over the Internet, as specified, under the jurisdiction of the Commissioner of Corporations.~~

~~This bill would, with respect to the regulation of Internet escrow agents, instead provide for regulation under the jurisdiction of the Director of Consumer Affairs.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17002 of the Financial Code is
2 amended to read:

3 17002. "Commissioner" means the Commissioner of
4 Corporations, except with respect to the regulation of
5 Internet escrow agents, in which case "commissioner"
6 means the Director of Consumer Affairs.

7 SEC. 2. Section 17003 of the Financial Code is
8 amended to read:

9 17003. (a) "Escrow" means any transaction—~~wherein~~
10 *in which* one person, for the purpose of effecting the sale,
11 transfer, encumbering, or leasing of real or personal
12 property to another person, delivers any written
13 instrument, money, evidence of title to real or personal
14 property, or other thing of value to a third person to be
15 held by—~~such that~~ *such that* third person until the happening of a
16 specified event or the performance of a prescribed
17 condition, when it is then to be delivered by—~~such that~~
18 third person to a grantee, grantor, promisee, promisor,
19 obligee, obligor, bailee, bailor, or any agent or employee
20 of any of the latter.

21 (b) *With regard to internet escrow companies,*
22 *"escrow" also includes any transaction in which one*
23 *person, for the purpose of effecting the sale or transfer of*
24 *personal property or services to another person, delivers*

1 *money, or its internet-authorized equivalent, to a third*
2 *person to be held by that third person until the happening*
3 *of a specified event or the performance of a prescribed*
4 *condition, when it is then to be delivered by that third*
5 *person to a grantee, grantor, promisee, promisor, obligee,*
6 *obligor, bailee, bailor, or any agent or employee of any of*
7 *the latter.*

8 *SEC. 3. Section 17409.1 of the Financial Code is*
9 *amended to read:*

10 17409.1. (a) Each person subject to this chapter shall
11 maintain separate escrow trust accounts for each licensed
12 location. Transfers between accounts are prohibited
13 except by the actual writing of a check from one escrow
14 to the other, and by depositing the check for the account
15 of, and the writing of a receipt for the escrow to which the
16 funds are being transferred. Each transfer shall be
17 properly supported and documented in escrow files by
18 inclusion of escrow instructions executed by the
19 principals authorizing the transfer.

20 (b) *With regard to internet escrow companies,*
21 *transfers to trust accounts by commercial banks and from*
22 *operating accounts to cover losses may be made through*
23 *wire transfer. Receipts for all these transactions may be*
24 *maintained in electronic form.*

